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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/821,845

04/12/2004

Patrick Valette

104710

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38598

7590

09/10/2007

ANDREWS KURTH LLP
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EXAMINER

NGUYEN, CUONG H

ART UNIT

PAPER NUMBER

3661

MAIL DATE

DELIVERY MODE

09/10/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/821,845

Applicant(s)

VALETTE ET AL.

Examiner

CUONG H. NGUYEN

Art Unit

3661

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 June 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-39 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☒ Claim(s) 35-36 is/are objected to.
- 8) ☒ Claim(s) 1-39 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This Office Action is the answer to the communication filed on 6/13/2007, which paper has been placed of record in the file.
2. Claims 1-39 are pending in this application, wherein new claims 37-39 have been added.

Response

3. The examiner withdraws previous Office Action in order to present a new restriction, as shown below.
4. The examiner also respectfully submits that there is a restriction on patentably distinct species, AND a restriction on combination/subcombination of features in pending claims.

Election/Restrictions

5. This application contains claims directed to the following patentably distinct species of the claimed invention:

A. Species I: Claims 1-23, and 35-39 are directed to a method for remotely communicating and interfacing with a monitoring system on an aircraft, with US classification 701/14

B. Species II: Claims 24-34 are directed to a unique physical system containing an aircraft condition-monitoring card (ACMS), and a wireless network to transmit ACMS data, having US classification 701/29.

The applicants are request to select or modify claim(s) so that a unique species/claims is defined according to a unique invention.

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I. Method/Apparatus claims: 1-22, 24-34, and 37-39, containing aircraft condition-monitoring card (ACMS), and a wireless network to transmit ACMS data, having US classification 701/29.

II. Method claim 23 having different required steps of claim 1, or claim 24.

III. Medium claims (e.g., a floppy disk): 35-36

Group I & III are process, and product of use (with US classification 701/14)

Claims 1-22, 24-34, 37-39 and 35-36 are directed to a method for remotely communicating and interfacing with a monitoring system on an aircraft.

The applicants are required again to select group I, II, or III for examination.

C. Please see also MPEP 806.04(c) of a definition for Subcombination Not Generic to Combination. This situation is frequently presented where two different combinations are disclosed, having a sub combination common to each. This was recognized in Ex parte Smith, 1888 C.D. 131, 44 O.G.1183 (Comm'r Pat.1888), where it was held that a sub combination was not generic to the different combinations in which it was used.

D. Claim 1 is directed to a specific limitation when it requires a limitation of: “wirelessly transmitting the flight performance data to a ground station through a wireless network” (see claim 1, lines 13-14).

E. Claim 17 is directed to a broader limitation when it requires a limitation of: “transmitting the flight performance data to the ground station through the available connection” (see claim 17, lines 15-16), note that there is no requirement to use a wireless network here.

F. Claim 23 is directed to a specific limitation when it requires a feature of: “a access point” (see claim 23, line 7), this feature is not required in independent method

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claim 1, and in independent system claim 24; note that a step of “modifying software on the ACMS” is not required in claim 24.

G. Claim 24 is directed to a broader limitation when it does not require a limitation of: “an access point”, note that there is no requirement to use modifiable software.

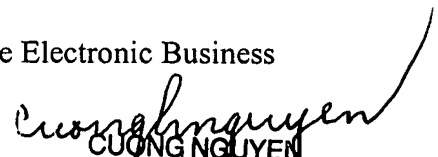
6. Note: Claim 36 is directed to a computer readable medium; however, what is contained in that medium is not disclosed; instead of method steps are claimed.

Applicants are required under 35 U.S.C. 121 to elect a single disclosed species, and a specific group for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to CUONG H. NGUYEN whose telephone number is 571-272-6759 (email address: cuong.nguyen@uspto.gov). The examiner can normally be reached on 9:30 am - 5:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner’s supervisor, THOMAS G. BLACK can be reached on 571-272-6956. The Rightfax number for the organization where this application is assigned is 571-273-6956.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


CUONG NGUYEN
PRIMARY EXAMINER